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Attorneys for Defendant Christopher J. Kayser

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
EUGENE DIVISION**

LAWRENCE JAMES SACCATO,
Pro Se Plaintiff,

vs.

U.S. BANK NATIONAL
ASSOCIATION N.D., STEPHANIE
BUCKLEY, CHRISTOPHER KAYSER
and DOES 1 THROUGH 5,

Defendants.

Case No. 6:13-cv-00173-AA

**DEFENDANT KAYSER'S ANSWER,
AFFIRMATIVE DEFENSES AND
COUNTERCLAIM**

Jury Trial Requested

COMES NOW, Defendant Christopher Kayser, by and through his attorneys Luvaas Cobb, and for his answer to plaintiff's complaint, admits, denies and alleges as follows:

1.

For answer to "Plaintiff's Statement of Claim" Kayser admits that plaintiff has alleged violations of federal statutes and that federal jurisdiction of this lawsuit is proper.

2.

Kayser only answers the allegations directed to him. To the extent answer by Kayser is required as allegations directed to the named co-defendants, those allegations are denied.

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DEFENDANT KAYSER'S ANSWER, AFFIRMATIVE DEFENSES AND
COUNTERCLAIM -1

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3.

Admits paragraph 3.

4.

For answer to paragraph 4 and 6, admits that plaintiff filed an action against U.S. Bank in the District Court of the United States, Eugene Division, Case No. 10-CV-06244-HO alleging violations of the FCRA, and admits that case is on review before the 9th Circuit Court of Appeals.

5.

For answer to paragraph 88, Kayser admits that he and his law firm Larkins Vacura LLP represented U.S. Bank in plaintiff's lawsuit alleging violations of the FCRA. Kayser does not answer plaintiff's other allegations in paragraph 88 because the answer would be protected by the attorney-client privilege. To the extent an answer is required, those allegations are denied.

6.

For answer to paragraphs 89-126, Kayser admits that plaintiff's Social Security number and certain other closed credit card accounts were inadvertently included in court filings without redaction or truncation.

7.

Except as admitted above, Kayser denies each and every other allegation, matter and thing contained in plaintiff's complaint and the whole thereof.

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DEFENDANT KAYSER'S ANSWER, AFFIRMATIVE DEFENSES AND
COUNTERCLAIM -2

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FOR DEFENDANT KAYSER'S FURTHER ANSWER BY WAY OF HIS FIRST AFFIRMATIVE DEFENSE, he alleges as follows:

(Failure to State a Claim)

8.

Plaintiff's complaint fails to allege facts sufficient to state a claim for relief.

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FOR DEFENDANT KAYSER'S FURTHER ANSWER BY WAY OF HIS SECOND AFFIRMATIVE DEFENSE, he alleges as follows:

(Privilege)

9.

The alleged conduct of defendant occurred when he was representing his client and during the course of litigation, and, therefore, was subject to privilege and defendant cannot be liable for same.

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FOR DEFENDANT KAYSER'S FURTHER ANSWER BY WAY OF HIS THIRD AFFIRMATIVE DEFENSE, he alleges as follows:

(Waiver)

10.

Plaintiff included personal identifying information without redaction in court filings, and, therefore, waived the protection of FRCP 5.2(a).

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DEFENDANT KAYSER'S ANSWER, AFFIRMATIVE DEFENSES AND COUNTERCLAIM -3

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FOR DEFENDANT KAYSER'S FURTHER ANSWER BY WAY OF HIS FOURTH AFFIRMATIVE DEFENSE, he alleges as follows:

(Collateral Estoppel)

11.

Plaintiff raised the same claims or issues complained of herein on his motion for summary judgment in the underlying lawsuit, and the court denied his motion. Plaintiff's claims, therefore, are barred by the doctrine of collateral estoppel.

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FOR DEFENDANT'S FURTHER ANSWER BY WAY OF A COUNTERCLAIM, he alleges:

(Attorney Fees)

12.

Plaintiff's claims brought under 15 USC § 1681 were brought in bad faith and/or for the purpose of harassment. Pursuant to 15 USC § 1681o(b), defendant is entitled to an award of his reasonable attorney fees.

13.

Pursuant to 42 USC § 1988(b), defendant is entitled to an award of his reasonable attorney fees in defense of plaintiff's claims brought under 42 USC §§ 1983, 1985 and 1986.

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DEFENDANT KAYSER'S ANSWER, AFFIRMATIVE DEFENSES AND COUNTERCLAIM -4

WHEREFORE, Defendant Kayser prays that plaintiff's complaint be dismissed with prejudice and final judgment be entered in favor of defendant, together an award for his reasonable attorney fees and recoverable costs incurred herein.

DATED this 20th day of March, 2013.

LUVAAS COBB
Attorneys for Defendant Christopher Kayser

By: /s/ David A. Jacobs
David A. Jacobs, OSB No. 942202
E-mail: djacobs@luvaascobb.com
Trial Attorney

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing **DEFENDANT KAYSER'S ANSWER, AFFIRMATIVE DEFENSES AND COUNTERCLAIM** on:

Lawrence James Saccato
c/o 6387 Old Hwy 99S
Roseburg, OR 97471
Pro Se Plaintiff

by the following indicated method or methods:

- X By **mailing** a full, true, and correct copy thereof in a sealed, first-class postage prepaid envelope, addressed to the attorney(s) as shown above, at the last known office address of the attorney(s), and deposited with the United States Postal Service at Eugene, Oregon, on the date set forth below.
- By depositing with **B & J/Barristers Aide** for hand-delivery a full, true, and correct copy thereof in a sealed envelope, addressed to the attorney(s) as shown above, at the last known office address of the attorney(s) on the date set forth below.
- By causing a full, true, and correct copy thereof to be **hand-delivered** to the attorney(s) at the attorney's last known office address listed above on the date set forth below.
- By sending a full, true, and correct copy thereof via **overnight courier** in a sealed, prepaid envelope, addressed to the attorney(s) as shown above, at the last known office address of the attorney(s), on the date set forth below.
- By **faxing** a full, true, and correct copy thereof to the attorney(s) at the fax number(s) shown above, which is the last known fax number for the attorney's office, on the date set forth below. The receiving fax machine was operating at the time of service and the transmission was properly completed, according to the attached transmission report(s).

DATED this 20th day of March, 2013.

LUVAAS COBB
Of Attorneys for Defendant Christopher Kayser

 /s/ David A. Jacobs
David A. Jacobs, OSB No. 942202